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courts of equity, and thus secured for the daughters of the poor those rights which the court of chancery had secured for those women who enjoyed the advantage of a marriage settlement.

The book is one to be read through from cover to cover, including the appendices, by every one interested in historical or legal questions. Professor Dicey is another "lawyer with a style" of the type of his great predecessor in the Vinerian chair, or of Sir Henry Maine. His work, like that of Bryce, Pollock and others of the Oxford School, shows us, what we are so apt to forget, that high scholarship and clearness of expression are not necessarily incompatible.

JOSEPH H. DRAKE.

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THE LAW OF CONTRACTS by William Herbert Page, of the Columbus, Ohio, Bar, Professor of Law in the Ohio State University. Author of "Page on Wills." Three volumes. Cincinnati: The W. H. Anderson Co., 1905, pp. cccclxv, 3083.

This work is divided as follows: Volume I, Formation of Contracts; Volume II, Construction of Contracts; Volume III, Operation and Discharge of Contracts. It is an exhaustive treatise of the subject of contracts in the entirety. In his preface, which is exceedingly modest, brief and to the point, the author acknowledges his indebtedness to Sir William Anson for the general outline of the subject and then expresses the hope that "This work may be of value to the legal profession, that it may make the lawyer's unremitting toil somewhat lighter, and that it may, even in a slight degree, tend to what should be the ultimate goal of every sincere writer on legal subjects—that is, to place our American jurisprudence on a broad, scientific and natural basis."

While the author has adopted Anson's grand divisions of the subject and has treated most thoroughly the fundamental principles of contract law he has also done more than this. He has written at length on the various special topics, such as agency, partnership, negotiable instruments, common carriers and corporations. The chapter on contracts with public corporations is of special value. Every step essential to the making of such a contract is carefully considered, as well as the various conditions precedent to the fixing of corporate liability and the rights arising out of estoppel ratification and curative legislation.

The law of joint and several liability is considered under Construction of Contracts whereas partnership is considered under Parties to Contract. Just why this is done is not clear. Both subjects are generally treated under the subject of parties. This much is true, however, that whether the liability under a contract is joint or several is always a matter of construction.

There are a few topics in the law that for a long time have baffled scientific treatment. They are mistake, misrepresentation and fraud. Then in applying the law to them the courts sometimes use the terms warranty and condition carelessly and in the end there is nothing definite but the final judgment. Professor Page has assayed assistance in clearing up the confusion and with considerable success. This he does at the beginning of his work. His treatment of what he calls "Fraud and misrepresentation in the

inducement" is clearer and more satisfactory than anything heretofore written on the subject. Non disclosure in *uberrimae fidei* contracts he considers in a chapter on "constructive fraud." This is easily understood but Anson regards such non-disclosure as a kind of misrepresentation. The author recognizes the condition of things when he calls attention to the fact that an eminent writer has included illegal contracts under the head of fraud. The confusion arises from the fact that there is no generally accepted terminology of the subject. Perhaps it is well that there is none. If courts should frame a definition for fraud the wrongdoer might escape liability by evading the definition. Courts aim to right wrongs without regard to names of things. In his introduction the author well says: "It may be added that in one sense accuracy of nomenclature is very important. Since ideas are expressed by words, misuse of words is likely to result in confusion of thought. In another sense it is of no importance if the idea to be conveyed is clearly understood. Discussion of the language in which it should be expressed usually involves time and energy that might be better employed. It must be confessed that the nomenclature of our law is defective. Such technical terms as it has are for the most part borrowed from popular language. It is, therefore, rare to find them possessed of that accuracy of meaning that the more artificial terms of science enjoy. Still, as the courts are unwilling to accept suggestions for a more artificial and accurate nomenclature, we must strive to use the terms actually employed with such accuracy as is possible."

The author writes on quasi contracts somewhat at length but more particularly of obligations arising independent of and disconnected from any agreement. One chapter, however, is given to the quasi contractual right of recovery on discharge of pure contract, quite another subject, and very properly treated simply as a remedy for breach of contract. We are pleased to note that he observes in quasi contract a substantive obligation, something more than the legal fiction allowed for its enforcement. The various sources of this obligation are fully presented.

The last part of the work is devoted to what he chooses to call "Place of Contract in Law." Under this heading there are three valuable chapters on conflict of laws, the impairment of the obligation of contract and the constitutional right of contract. The last chapter contains a careful consideration of the many decisions upon recent statutes affecting hours of labor and rate and method of payment in various occupations. Attention is called to the numerous conflicting decisions on the subject. The courts have much to do in this field before the rights of the individual become well enough defined to be of any appreciable value as against legislative encroachment. Professor Page says: "With the exact nature of the police power in doubt, and with further doubt as to whether the power of the Legislature to prohibit future contracts is any wider than the police power, it follows that it is practically impossible to lay down in advance rules which will determine whether the Legislature possesses this power in reference to specific types of contract." The decision of the Supreme Court of the United States in *People v. Lochner*, handed down last spring and after this book was published, holding that the New York statute in restriction of the hours of labor

for bakers to sixty hours a week, was unconstitutional, may help to dispel some false notions regarding legislative functions; but the decision is too heavily burdened by conflicting opinions to be very decisive of anything. It is a turn in the right direction, however, and may end well.

In preparing a table of contents, a table of cases and an index for the book the author has shown uncommon faithfulness. The index covers over three hundred pages and is both a topic and syllabus index with full cross references. The table of cases cited numbers over thirty-five thousand and gives the official and the unofficial reports in which the cases may be found. Where a number of cases are cited in the notes to the same point the cases are from foreign reports, then from federal reports and then from the state reports, arranged in alphabetical order. In his book-making the author has been very methodical. In every department of his work he has adopted some simple method and adhered to it rigorously. This is very helpful to the practitioner. After a few moments' acquaintance with the work one will know where to look for a point decided, and having looked will find it and the cases upon it, if it pertains to contract law. Nothing more than this can be asked for.

The publishers are to be commended for what they have done, but the volumes are too bulky and the paper too heavy. The work in four volumes and on lighter paper would be more convenient. Perhaps, however, this is not a fault. It certainly does not detract from the intrinsic merit of the book.

We must say that the author has made a contribution of permanent value to the science of jurisprudence and that during many years of practice and teaching in law, no better book on contract law for the practitioner of today has come under our observation.

J. C. KNOWLTON.

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THE ENCYCLOPAEDIA OF EVIDENCE. Edgar W. Camp, Editor-in-chief, Los Angeles, California: L. D. Powell Co., 1902-1905. Vols. I-VI, pp. 1020, 1000, 961, 1017, 971, 936.

Never before in a single year has the law of evidence been so enriched as in the year just passed.

Almost simultaneously were announced the publication of Professor Wigmore's great work, in four royal octavo volumes, and that of Byron K. and William F. Elliott, also in four volumes. And then come at least three volumes of the Encyclopædia of Evidence. The publication of the volumes of this series began somewhat earlier, but the past year three out of the seven volumes already published were brought out.

There is indication here that the real importance of this branch of the law is coming to be appreciated in better measure. There certainly is no other subject of the law upon which the practitioner needs to be more generally or more accurately informed, nor one, as to which, there is greater need that the law of the subject be more readily accessible.

The past decade and a half has witnessed great accomplishments in the explorations of this field, and in the setting forth of the law of this subject, particularly in this country.